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MS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/482,653	01/13/00	WELLS	J 70869-0078

EXAMINER

022902
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IM22/0308

COOLEY, C	PAPER NUMBER
ART UNIT	

1723
DATE MAILED: 03/08/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/482,653

Applicant(s)

Wells, Deceased et al.

Examiner

Charles E. Cooley

Group Art Unit

1723

☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-37 _____ is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-37 _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1723

OFFICE ACTION

1. This application has been assigned to Technology Center 1700, Art Unit 1723 and the following will apply for this application:

a. Please direct all written correspondence for this application to Art Unit

1723. The examiner can be reached at telephone number (703) 308-0112.

b. Telephone inquiries regarding this application should be directed to the Technology Center 1700 receptionist at (703) 308-0651 or to the Examiner at (703) 308-0112. Facsimile correspondence for this application should be transmitted to (703) 305-3602 or (703) 305-7718.

Assignee

2. This application is objected to under 37 CFR 1.172(a) as lacking the written consent of all assignees owning an undivided interest in the patent. The consent of the assignee must be in compliance with 37 CFR 1.172. See MPEP § 1410.01.

A proper assent of the assignee in compliance with 37 CFR 1.172 and 3.73 is required in reply to this Office action.

Inventorship

3. Proof of authority of the legal representative for deceased inventor John A. Wells under 37 CFR 1.44 has been omitted and must be provided.

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Surrender of Patent

4. The offer to surrender the original patent is acknowledged. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

Reissue Oath/Declaration

5. The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following:

- a. It does not identify the citizenship of each inventor (37 CFR 1.63(a)(3)).
- b. It does not state whether the inventor is a sole or joint inventor of the invention claimed (37 CFR 1.63(a)(3)).
- c. It appears the name of the first inventor is actually --John R. Wells-- rather than "John A. Wells".
- d. Is item (4) of the declaration missing data? (by any amendment on _____).

6. Claims 1-37 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

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Drawings

7. Requirements for drawings in reissue applications are found in 37 CFR 1.174 and MPEP 1413.

Specification

8. The abstract is acceptable.
9. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed (MPEP 606.01). The title should also include a reference to the claimed container.

Claim Objections

10. The amendment filed 28 SEP 1998 proposes amendments to that do not comply with 37 CFR 1.121(b), which sets forth the manner of making amendments in reissue applications. Any response to this office action must correctly amend the reissue application. (see the proper formats in MPEP 1453).

a. Original patented claim 14 (but now amended) lacks --(Amended)-- after the claim number.

b. Newly presented claims 22-37 should appear completely underlined in all amendments in which they are presented.

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All changes made in the reissue are made *vis-a-vis* the original patent, and not in comparison to the prior amendment.

Claim Rejections - 35 U.S.C. § 112, second paragraph

11. Claims 29 and 32 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 29, line 2: does the "centrifuge rotor" have any relationship to the "centrifuge" of claim 28?

Claim 32, line 2: does the "centrifuge rotor" have any relationship to the "centrifuge" of claim 28?

12. Each pending claim should be thoroughly reviewed such that these and any other informalities are corrected so the claims may particularly point out and distinctly claim the subject matter which applicant regards as the invention, as required by 35 U.S.C. § 112, second paragraph.

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Claim Rejections - 35 U.S.C. § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

14. Claims 22, 23, 24, 25, 28, and 29 are rejected under 35 U.S.C. § 102(b) as being anticipated by Raccuglia et al.

The patent to Raccuglia et al. discloses a system in Figs. 8-11 comprising a centrifuge 212; a walled container 110, 112 (Figs. 8-9) having a first chamber 114 and a second chamber 116; a bridge 164, 153, 152, 138 for transferring fluid between the chambers; a holder assembly 214 attached to the centrifuge; lid portions 120, 122; access port 118; pivotally mounted frame 216.

15. Claims 25-27 are rejected under 35 U.S.C. § 102(e) as being anticipated by Li.

The patent to Li discloses a walled container 12 comprising a first chamber 16 and a second chamber 40; a bridge 34 for transferring fluid between the chambers (Figs. 3-8); a removable lid C; and access port 26.

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16. Claims 25-27 are rejected under 35 U.S.C. § 102(b) as being anticipated by McFarland.

The patent to McFarland discloses a walled container (Fig. 1) comprising a first chamber 12 and a second chamber 14; a bridge 32; a removable lid 18; and access port (proximate 22).

17. Claims 33 and 36 are rejected under 35 U.S.C. § 102(b) as being anticipated by McFarland.

The patent to McFarland discloses a walled container (Fig. 3) comprising a first chamber 12A and a second chamber 14A; a bridge 62; lid 66; access ports 70; and separation disks 38.

18. Claims 25-27 are rejected under 35 U.S.C. § 102(b) as being anticipated by Crippa.

The patent to Crippa discloses a walled container comprising a first chamber 1 and a second chamber 7; a bridge 4 (Fig. 4); a removable lid 10; and access port (proximate 6).

19. Claims 33 and 37 are rejected under 35 U.S.C. § 102(b) as being anticipated by Crippa.

The patent to Crippa discloses a walled container comprising a first chamber 1 and a second chamber 7; a bridge 4 (Fig. 4); a lid 10; access ports (proximate 3 and 6); the bridge 4 being formed at the tops of the adjacent sidewalls of the chambers (Fig. 4).

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20. Claims 25-27 are rejected under 35 U.S.C. § 102(b) as being anticipated by Onishi.

The patent to Onishi discloses a walled container in Fig. 2 comprising a first chamber A and a second chamber B; a bridge 21a; a removable lid 23 or 25; and access ports 22 and 24.

21. Claims 33, 34, 35, and 37 are rejected under 35 U.S.C. § 102(b) as being anticipated by Onishi.

The patent to Onishi discloses a rigid walled container of a suitable material (Col. 3, lines 36-39) in Fig. 2 comprising a first chamber A and a second chamber B; a bridge 21a; a removable lid 23 or 25; access ports 22 and 24; the bridge 21a being formed at the tops of the adjacent sidewalls of the chambers (Fig. 2).

Allowable Subject Matter

22. Claim 32 would be allowable if rewritten to overcome the rejections under 35 U.S.C. § 112 and 35 U.S.C. § 251 and to include all of the limitations of the base claim and any intervening claims.

23. Claims 1-21 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 251.

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24. Claims 30 and 31 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 251 and to include all of the limitations of the base claim and any intervening claims.

Conclusion

25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited prior art is the prior art cited in the parent application and also shows multi-compartmented containers.

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Charles Cooley whose telephone number is ☎ (703) 308-0112.

27. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1700 receptionist whose telephone number is ☎ (703) 308-0651.

Dated: 24 February 2001



Charles Cooley
Primary Examiner
Art Unit 1723